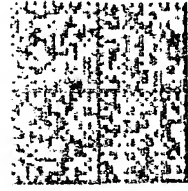


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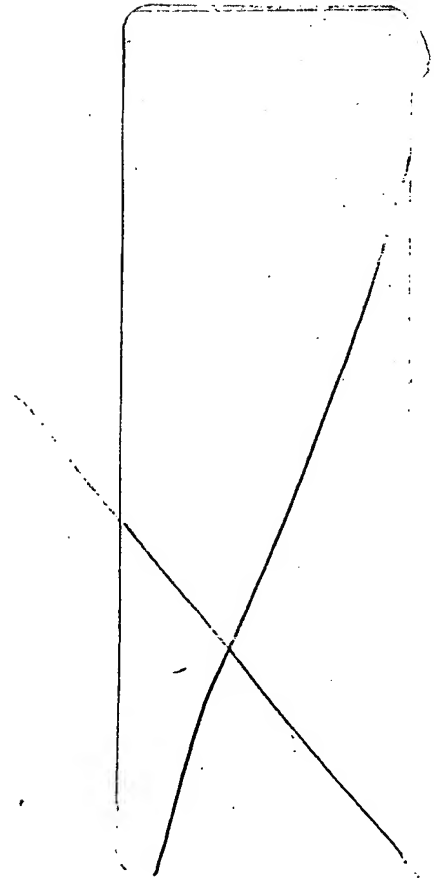
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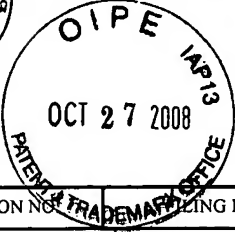


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APPLICATION NO.	FILED DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,843	11/24/2003	Mamoud Sadre		2922
7590 10/17/2008				
Mamoud Sadre Unit # 203 165 Tremont Street Boston, MA 02111				
EXAMINER				
HAMMOND III, THOMAS M				
ART UNIT		PAPER NUMBER		
3695				
MAIL DATE		DELIVERY MODE		
10/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 11/080,862	<b>Applicant(s)</b> GESEL ET AL.	
	<b>Examiner</b> William L. Miller	<b>Art Unit</b> 3677	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 June 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 3-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

***Response to Amendment***

1. The amendment filed 06-30-2008 has been entered.
2. Claims 1 and 3-14 are pending.

***Specification***

3. The amendment filed 06-30-2008 is objected to under 35 U.S.C. 132(a) because it continues to introduce new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows: a cutout is formed completely through any one or more members 10, 15, 20, and 25 of the frame.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

4. Claims 1 and 3-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, claims 1, 7, and 14 recite a cutout is completely formed through the base periphery. This feature as intended by the applicant is not supported by the original disclosure.

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5. Claims 1 and 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1, lines 18-21, are redundant with claim 1, lines 8-10.

7. In claim 4, lines 2-3, the phrase "said means for displaying an aesthetically pleasing graphic image or shape" lacks antecedent basis.

*Claim Rejections - 35 USC § 102*

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claims 1 and 3-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Burke (US#4063378).

10. Burke discloses a wall mounted cover comprising:

11. means for providing structure to a frame of the cover comprising a top frame member having a base periphery (18) (see Fig. 2) allowing the cover to lie substantially flush with a flat surface and a cutout (26) completely formed therein allowing air movement between an interior space of the cutout and the outside of the cover;

12. means for providing structure to the frame of the cover for elevating the face thereof comprising first and second side frame members, each having cutouts (26);

13. the planar face (32) having disposed thereon an aesthetically pleasing graphic image or shape comprising a face or front decoration (30), connected to said means for providing structure

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to the frame of the cover, being dimensioned to substantially cover the opening bordered by the top and side members;

14. means for mounting the cover to a surface comprising a wall retention device (48) that is rigidly constructed to said means for providing structure to the frame of the cover; and

15. a bottom frame member having a cutout 26, the bottom member providing stability and connected to both side members.

16. According to col. 5, lines 50-55, the top and side members are polymeric.

***Claim Rejections - 35 USC § 103***

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Burke (US#4063378).

19. Burke discloses all the elements of claim 14 except for the front decoration comprising an alphanumeric design. However, it would have been an obvious matter of design choice to include an alphanumeric design for the front decoration, since it appears that the invention would perform equally well with any suitable design. Moreover, patentable novelty cannot be principally predicated on mere printed matter and arrangements thereof, but must reside basically in physical structure. (See *In re Montgomery* 102 USPQ 248).

***Response to Arguments***

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CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William L. Miller whose telephone number is (571) 272-7068. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Victor Batson can be reached on (571) 272-6987. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/William L. Miller/  
Primary Examiner, Art Unit 3677

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20. The applicant argues the cutout of the amended specification and pending claims 1, 7, and 14 is not new matter. While there is support in the original disclosure for a cutout in the frame members, the original disclosure does not support a cutout formed completely through any one or more of the frame members as recited by the amended specification. The applicant is invited to point to anywhere in the original disclosure which provides for the cutout being formed completely through any of the frame members.

21. The applicant argues the cutout 26 in Burke does not form a passageway completely through any members of the frame. However, the exact claim language is broader than this argument. The claim requires "a cut-out completely formed therethrough", not a cut-out formed completely through as eluded to by the applicant in the arguments. The actual claim language can be reasonably interpreted as requiring the entire (complete) cutout be formed through (therein) the respective frame members, i.e. the cutout not extend beyond the respective frame member boundaries. Burke meets this reasonable interpretation of the claim language.

#### *Conclusion*

22. Applicant's amendment necessitated any new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37